

## REMARKS

Claims 7-12, 51-54, and newly added claim 63 remain in the application.

### Claim Rejections - 35 USC § 112

Claims 7-12, 51-54, and 63 do not contain the “additional preamble fields” limitation.

### Claim Rejections – 35 USC §102

Claims 1-2, 20, 23, 24, 27, 38-45, 47-50, and 59-60 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Perahia et al. (US 7352688, hereinafter, “Perahia”).

Claims 1-2, 20, 23, 24, 27, 38-45, 47-50, and 59-60 have been canceled.

Claims 11 and 12 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Thomson et al. (US 20030058951, hereinafter, “Thomson”).

On Page 3 of the Action, in response to Applicant’s argument that, “there is no indication in Thomson that the 3.5 MHz ‘buffer’ is used to transmit data in contradiction to the 802.11a standard, as recited in claim 11 and 12,” the Action states that the features upon which Applicant rely, namely, “is used to transmit data in contradiction to the 802.11a standard,” are not recited in the rejected claim(s).

Applicant respectfully disagrees, and submits that claims 11 and 12 are allowable. While it is true Applicant does not specifically recite the “802.11a standard” in claims 11 and 12, independent claim 11 specifically recites transmitting data in the out-of-band frequency range. Claim 11 recites, in relevant part, “...transmitting the second portion of the data within the at least one out-of-band frequency range.” (emphasis added).

The “out-of-band” limitation is clearly described in the Application, in particular with reference to FIG. 5 and corresponding description at paragraphs [0050] to [0053].

To reiterate from the previous amendment, “The Action characterizes Thomson as describing a technique for increasing data capacity by utilizing out-of-band frequencies, citing paragraph [0006], lines 14-17 and FIG. 4a. However, the text and figure only describe the standard IEEE 802.11a practice of utilizing a specific portion of the 20MHz channel, i.e., 52 non-zero subcarriers in a 16.5MHz range, with 3.5MHz unused and reserved for preventing interference between channels. From Thomson ([0006], ll. 14-17:

“The 802.11a standard specifies that each 20 MHz channel has 52 subcarriers covering 16.5 MHz of the 20 MHz, leaving 3.5 MHz to be used for preventing interference between channels.”

There is no indication that Thomson is transmitting data in this “out-of-band” portion of the 20 MHz channel, which is reserved to prevent interference between channels.

Applicant invites the Examiner to specifically identify where Thomson describes transmitting any information outside of the 16.5 MHz range shown in FIG. 4a, i.e., in the “out-of-band” region.

Based on the amendments and reasons given above, Applicant submits that Thomson does not anticipate independent claim 11.

#### Claim Rejections – 35 USC §103

Claims 7-10 and 51-54 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Perahia et al in view of Thomson et al.

Independent claims 7, 10, and 51 clearly recite transmitting information in the out-of-band component of the transmit channels and have been amended to more clearly describe the out-of-band component as being unused by conventional 802.11a devices.

As discussed above, Thomson does not describe transmitting information in the out-of-band portion shown in Fig. 4a. Accordingly, Applicant submits that independent claims 7, 10, and 51, and their dependencies, are allowable.

### CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any additional fees or credit any overpayments that may be due with this response to Deposit Account No. 170026.

Respectfully submitted,

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